

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOANN KING,	:	
Plaintiff	:	
	:	
vs.	:	CIVIL NO. 1:CV-04-2291
	:	(Judge Caldwell)
JO ANNE B. BARNHART,	:	
Commissioner of	:	(Magistrate Judge Smyser)
Social Security,	:	
Defendant	:	

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This is an action under 42 U.S.C. § 405(g) to review the decision of Defendant, the Commissioner of the Social Security Administration, denying Plaintiff's application for disability insurance benefits and supplemental security income under the Social Security Act. We are considering the Report and Recommendation of the United States Magistrate Judge which recommends that we deny Plaintiff's appeal.

We agree with the Magistrate Judge that the Administrative Law Judge's (ALJ) decision is supported by substantial evidence. The Magistrate Judge, however, questioned the validity of the ALJ's finding that the Plaintiff has the capacity for medium work since she determined that the Plaintiff could not longer perform her past work, which was classified as light and sedentary. We note that at the administrative hearing,

the ALJ asked the vocational expert to determine whether, in light of the Plaintiff's *non-exertional* limitations, a hypothetical individual could perform the Plaintiff's past relevant work. (Tr. 350). He determined that a hypothetical individual could not and the ALJ accepted this in her opinion. (Tr. 23, 351). The ALJ's finding that medium work was possible was based on evidence that the Plaintiff could carry twenty-five to fifty pounds and had little or no limitation on her sitting, standing, or walking. (Tr. 22-4, 230, 233). Thus, the ALJ's finding that Plaintiff could perform the *exertional* requirements of medium work is not in conflict with her finding that the Plaintiff could not perform the *non-exertional* requirements of her previous work.

AND NOW, this 1st day of August, 2005, upon consideration of the Report of the United States Magistrate Judge (Doc. 10), dated July 5, 2005, to which no objections were filed, and an independent review of the Record, it is Ordered that the Magistrate Judge's Report is adopted. It is further Ordered, pursuant to the Magistrate Judge's recommendation, that Plaintiff's appeal is denied. The Clerk of Court shall close the file.

/s/William W. Caldwell
William W. Caldwell
United States District Judge